

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKAST. THOMAS GROUP, INC., and VITALY
EKWEN,

Plaintiffs,

v.

PATRICK BENSON and JARED R. DEAN,

Defendants.

8:24CV331**ORDER**

Plaintiffs St. Thomas Group, Inc., and Vitaly Ekwen (“Ekwen” and together, the “plaintiffs”) brought this lawsuit (Filing No. 1) alleging city officials violated their rights to equal protection and due process under the United States and Nebraska Constitutions in inspecting, taxing, and demolishing their various properties in Omaha, Nebraska. On January 6, 2025, the Court dismissed defendants the City of Omaha, County of Douglas, Omaha Police Department, Bellevue Police Department, and a slew of named officials on those defendants’ motions to dismiss (Filing Nos. 23, 29, 32).¹ *See* Fed. R. Civ. P. 12(b)(6). In so doing, the Court dismissed the plaintiffs’ federal claims with prejudice but dismissed their state constitutional claims without prejudice to their timely refiling in state court. The plaintiffs have since appealed that decision (Filing No. 42).

Now before the Court is Ekwen’s “Motion for In Forma Pauperis Designation” (Filing No. 43). Ekwen’s curt filing asks the Court to waive the filing fee on appeal due to his ongoing medical issues.

¹As yet, the plaintiffs have failed to file proof of service of defendants Patrick Benson (“Benson”) and Jared R. Dean (“Dean”). The magistrate judge has recommended (Filing No. 44) that the plaintiffs’ claims against Benson and Dean be dismissed for want of prosecution. *See* Fed. R. Civ. P. 4(m); NECivR 72.2(a) (giving a party 14 days to object to a magistrate judge’s Findings and Recommendations). That matter remains pending.

Federal Rule of Appellate Procedure 24(a)(1) sets forth requirements for movants seeking permission to appeal in forma pauperis, none of which have been met here. In particular, a party moving “to appeal in forma pauperis . . . must attach an affidavit” to their motion (A) “show[ing] in the detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security,” (B) “claim[ing] an entitlement to redress,” and (C) “stat[ing] the issues that the party intends to present on appeal.” Ekwen has not informed the Court of his financial circumstances at all, nor even attempted to satisfy the other requirements of Rule 24(a)(1). His motion to appeal in forma pauperis (Filing No. 43) is therefore denied without prejudice.

Dated this 14th day of February 2025.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge